- (d) Employees appointed under a reemployment right—(1) Notice. At the time the employee exercises his/her reemployment right, the agency shall give the employee a written notice which includes the following information:
- (i) A statement that the employee meets the requirements of §317.301(b)(6) for eligibility for conversion to the Senior Executive Service and that he/she is being offered an appointment under the Senior Executive Service;
- (ii) A statement that the employee has 90 calendar days from the date of receipt of the written notice to elect either to join the Senior Executive Service or to remain under the type of appointment upon which the reemployment right was based;
- (iii) Identification of the position, SES pay rate, and kind of appointment which the employee will receive if the employee elects to convert to the Senior Executive Service;
- (iv) If the reemployment right is to a position in the excepted service and the employee has reinstatement eligibility to a position in the competitive service, or, as determined by the Office of Personnel Management, has substantial career-oriented service under career-type appointments as defined in §317.304(a)(2), a statement that the employee may request conversion to career appointment;
- (v) A summary of the features of the Senior Executive Service (this can be accomplished by appending descriptive material prepared by the Office); and
- (vi) A statment that the employee must submit his/her decision with regard to paragraphs (d)(1)(ii) and (iv) of this section, in writing, on or before the end of the notice period.
- (2) Pay. An employee's SES rate will be determined under 5 CFR part 534, subpart D.
- (3) Freedom of choice. The employee shall decide whether he/she accepts conversion to the Senior Executive Service. The employing agency shall not attempt to influence the employee's decision through coercion, intimidation or duress.
- (4) Employee's election. On or before the end of the notice period, the employee shall signify in writing his/her decision to accept or to decline an appointment under the Senior Executive

- Service. An excepted service employee shall also indicate whether he/she requests conversion to career appointment. Failure to respond shall be deemed a declination.
- (5) Effective date. A conversion under this section for an employee who elects to join the SES shall become effective at the end of the notice period.

 $[45~\mathrm{FR}~8541,~\mathrm{Feb}.~8,~1980,~\mathrm{as}$ amended at $45~\mathrm{FR}$ 19213, Mar. 25, 1980; 69 FR 2050, Jan. 13, 2004]

§317.303 Status of employees who decline voluntary conversion to the Senior Executive Service.

- (a) An employee who declines conversion pursuant to \$317.302(a)(4) or \$317.302(d)(4) shall remain in his/her current appointment and pay system, and shall retain the grade, seniority, and other rights and benefits associated with such type of appointment and pay system. The employee may continue in the current SES position or be reassigned to another position within or outside the Senior Executive Service
- (b) The assignment of an employee who declines conversion under this subpart shall not result in the separation or reduction in grade of any other employee in the agency.
- (c) Nothing in these regulations affects an agency's right to terminate a limited executive appointment pursuant to Civil Service Rule IX.

 $[45~{\rm FR}~8541,~{\rm Feb.}~8,~1980,~{\rm as~amended~at}~45~{\rm FR}~19213,~{\rm Mar.}~25,~1980]$

§ 317.304 Conversion of career and career-type appointees.

- (a) Coverage. This section covers employees serving under:
- (1) A career or career-conditional appointment; or
- (2) A similar type of appointment ("career-type" appointment) in an excepted service position as determined by the Office. A career-type appointment is an appointment in the excepted service other than an appointment:
- (i) To a Schedule C position established under part 213 of this chapter;
- (ii) To a position authorized to be filled by noncareer executive assignment under part 305 of this chapter;
- (iii) To a position which meets the same criteria as a Schedule C position